

Notice of Allowability

Application No.

10/616,320

Examiner

Susan Hanley

Applicant(s)

MOORE ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/15/06.
2. ☒ The allowed claim(s) is/are 1-7.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 12/31/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 20060315.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Richard Parr on 3/15/06.

The application has been amended as follows:

IN THE SPECIFICATION:

At page 3, line 18, "Gly, is" has been changed to -- Gly (SEQ ID NO. 4), is --

At page 3, line 23, "Gly, has the" has been changed to -- Gly (SEQ ID NO. 2), has the --

IN THE CLAIMS:

In claim 1, at line 7 of the claim, the phrase "comprising the ketoreductase" was changed to -- comprising a ketoreductase --.

In claim 2, at line 10, "Gly, and" was changed to -- Gly (SEQ ID NO. 1), and --.

In claim 2, in the last line of the claim, "Asn-Gly." was changed to -- Asn-Gly (SEQ ID NO. 4). --.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

The closest prior art is Matsuyama et al. (US 5,371,014). Matsuyama et al. disclose the synthesis of 2-hydroxy esters by incubating a microbe with 2-oxo esters (abstract). The microbe can be *Sporobolomyces salmonicolor* AHU3982 (col. 4, lines 15-16). Matsuyama et al. do not identify any enzymes that catalyze the reaction. The *Sporobolomyces salmonicolor* strain AHU3982 is not the same as the microorganism that produces the claimed sequences which are derived from *Sporobolomyces salmonicolor* AKU 4429. A search of CAPLUS, the Internet and the NCBI website did not uncover any references to the AHU3982 strain or any reductases purified from it. Thus, although Matsuyama et al.

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teach the claimed reduction with a strain of *Sporobolomyces salmonicolor*, the prior art does not provide sufficient evidence to meet the burden of proof to justify a rejection under 35 U.S.C. 102 asserting that it is inherent that the AHU3982 strain make a reductase having the molecular weight and N-terminal sequences as claimed.

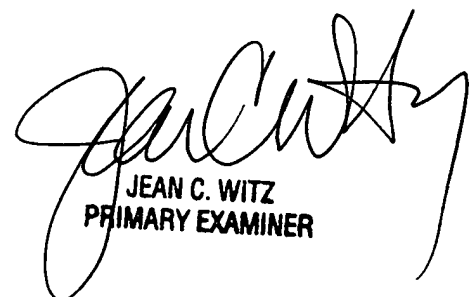
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Hanley whose telephone number is 571-272-2508. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan Hanley
Patent Examiner
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JEAN C. WITZ
PRIMARY EXAMINER